

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Terry T. Thomas

v.

Civil No. 07-cv-385-JL

Warden, New Hampshire State Prison

ORDER

Before the Court is Terry Thomas' petition for a writ of habeas corpus (document no. 1), filed pursuant to 28 U.S.C. § 2254. The matter is before me for preliminary review to determine, among other things, whether it states a claim upon which relief might be granted. See United States District Court for the District of New Hampshire Local Rule ("LR") 4.3(d)(2); Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts ("§ 2254 Rules").

For the reasons fully explained in the Report and Recommendation issued simultaneously with this Order, I recommend dismissal of claims¹ 4, 17, 24(K), 29(L), 30(E), 14, to the extent it relies on state law grounds, and 16, 29(J) and (K),

¹I refer to the claims by the number with which they are identified in the Report and Recommendation issued this date.

30(G) and (I)(v), and 31(O), to the extent they raise challenges to Thomas' incarcerative sentence, from this petition. As to the remaining claims, Thomas has sufficiently demonstrated that they are exhausted to allow them to proceed at this juncture.

Accordingly, the petition shall be served upon the New Hampshire State Prison, which shall file an answer or other pleading in response to the allegations made therein. See § 2254 Rule 4 (requiring reviewing judge to order a response to the petition). The Clerk's office is directed to serve the New Hampshire Office of the Attorney General, as provided in the Agreement on Acceptance of Service copies of this Order, the Report and Recommendation, the original habeas petition (document no. 1), my March 14, 2008 Report and Recommendation (document no. 4), the objection thereto (document no. 5), and Judge Laplante's May 14, 2008 Order (document no. 6). The respondent shall answer or otherwise plead within thirty (30) days of the date of this Order. The answer shall comply with the requirements of § 2254 Rule 5 (setting forth contents of the answer).

Upon receipt of the response, the Court will determine whether a hearing is warranted. See § 2254 Rule 8 (providing circumstances under which a hearing is appropriate).

Petitioner is referred to Fed. R. Civ. P. 5, which requires that every pleading, written motion, notice, and similar paper, after the petition, shall be served on all parties. Such service is to be made by mailing the material to the parties' attorney(s).

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: August 27, 2008

cc: Terry T. Thomas, pro se